

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

TRAVIS DEVONNE SPENCER

§

VS.

§

CIVIL ACTION NO. 1:10cv214

JODY R. UPTON

§

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Travis Devonne Spencer, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the petition be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record and pleadings. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes petitioner's objections should be overruled. Petitioner asserts he is not asking for retroactive designation. Instead, petitioner contends he seeks credit for time served which he was awarded pursuant to § 5G1.3(b) of the Sentencing Guidelines.

Petitioner's §5G1.3 argument was thoroughly examined and found to lack merit in the Report and Recommendation of the Magistrate Judge entered in the underlying criminal action on

November 18, 2008. *See United States v. Spencer*, No. 1:93cr223, #63 at *6, n.4 (E.D. Tex.).

Petitioner is entitled to no relief in this petition for writ of habeas corpus.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

So **ORDERED** and **SIGNED** this **8** day of **March, 2011**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge